Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast) (Text with EEA relevance)

TITLE VI

TRANSITIONAL AND FINAL PROVISIONS

CHAPTER I

Transitional provisions

[F1 Section 3

Insurance and reinsurance

[F1 *Article 308c*

Transitional measure on the risk-free interest rates

1 Insurance and reinsurance undertakings may, subject to prior approval by their supervisory authority, apply a transitional adjustment to the relevant risk-free interest rate term structure with respect to admissible insurance and reinsurance obligations.

2 For each currency the adjustment shall be calculated as a portion of the difference between:

a the interest rate as determined by the insurance or reinsurance undertaking in accordance with the laws, regulations and administrative provisions which are adopted pursuant to Article 20 of Directive 2002/83/EC at the last date of the application of that Directive;

b the annual effective rate, calculated as the single discount rate that, where applied to the cash flows of the portfolio of admissible insurance and reinsurance obligations, results in a value that is equal to the value of the best estimate of the portfolio of admissible insurance and reinsurance obligations where the time value of money is taken into account using the relevant risk-free interest rate term structure referred to in Article 77(2).

Where Member States have adopted laws, regulations and administrative provisions pursuant to Article 20(1)B(a)(ii) of Directive 2002/83/EC, the interest rate referred to in point (a) of the first subparagraph of this paragraph shall be determined using the methods used by the insurance or reinsurance undertaking at the last date of the application of Directive 2002/83/EC.

The portion referred to in the first subparagraph shall decrease linearly at the end of each year from 100 % during the year starting from 1 January 2016 to 0 % on 1 January 2032.

Where insurance and reinsurance undertakings apply the volatility adjustment referred to in Article 77d, the relevant risk-free interest rate term structure referred to in point (b) shall be the adjusted relevant risk-free interest rate term structure set out in Article 77d.

3 The admissible insurance and reinsurance obligations shall comprise only insurance or reinsurance obligations that meet the following requirements:

a the contracts that give rise to the insurance and reinsurance obligations were concluded before the first date of the application of this Directive, excluding contract renewals on or after that date;

b until the last date of the application of Directive 2002/83/EC, technical provisions for the insurance and reinsurance obligations were determined in accordance with the laws, regulations and administrative provisions which are adopted pursuant to Article 20 of that Directive at the last date of the application thereof;

c Article 77b is not applied to the insurance and reinsurance obligations.

4 Insurance and reinsurance undertakings applying paragraph 1 shall:

a not include the admissible insurance and reinsurance obligations in the calculation of the volatility adjustment set out in Article 77d;

b not apply Article 308d;

c as part of their report on their solvency and financial condition referred to in Article 51, publicly disclose that they apply the transitional risk-free interest rate term structure, and the quantification of the impact of not applying this transitional measure on their financial position.**]**

Textual Amendments

F1 Inserted by Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority).